

REMARKS/ARGUMENTS

The Office Action dated October 14, 2010 has been carefully reviewed. Claims 1, 4-7, 9-12, 15-18, 20-25, 27-29, and 32-39 are pending in the present application. Claims 1, 12, 23, 24, 29, 34, 35 and 36 are independent claims. Reconsideration and allowance of the application is requested in view of the remarks submitted herewith.

Improper Finality

On Page 7 of the 10/14/2010 Office Action, the Examiner directs the Applicants' attention to claim 34 and then states that "the claims are rejected under 35 U.S.C. 101 as covering non-statutory subject matter". The Applicants direct the Examiner to MPEP 706.07(a), which states "second or any subsequent actions on the merits shall be final, *except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims, nor based on information submitted in an information disclosure statement*" (Emphasis added). In this case, the Applicants note that (i) claim 34 was not rejected under 35 U.S.C. 101 in the 4/28/2010 Office Action, (ii) claim 34 was not amended in the 7/26/2010 Amendment and (iii) no IDS has been filed since the 4/28/2010 Office Action. Thus, the 10/14/2010 Office Action should not have been made final.

With regard to the merits of the 35 U.S.C. 101 rejection itself, the Applicants have amended claim 34 to overcome the 35 U.S.C. 101 rejection. This Amendment should be entered because the 35 U.S.C. 101 rejection should not have been first-asserted in a Final Office Action. The finality of the 10/14/2010 Office Action should thereby be withdrawn and another Office Action should be issued.

Allowable Subject Matter

The Applicants note with appreciation the indication on Page 5 of the Office Action that claims 4, 9, 10, 15, 20, 21, 28 and 33 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. However, the Applicants submit this is not necessary in view of the following remarks.

The Applicants also thank the Examiner for the helpful comments and recommendations on the bottom of Page 6 and the top of Page 7 of the Office Action.

Reply to Examiner's Response to Arguments

Since the Examiner has maintained the prior rejections and has provided arguments in support of this position, the Applicants will address the Examiner's response first.

1. Claims 35 and 36 should be allowed at least by virtue of the Examiner's indication of allowance for claim 9.

As an initial matter, the Applicants direct the Examiner to claim 9, which recites "sending a reply from the wireless communications device to the voice message server in response to the notification". The Examiner now recognizes that claim 9 distinguishes over the applied art of record, and has indicated claim 9 would be allowed if rewritten as an independent claim.

With this in mind, the Applicants note that independent claims 35 and 36 already included language similar to claim 9. In particular, independent claim 35 recites "routing a reply from the wireless communications device to the voice message server, and signaling the mobile switching center from the voice message server to deliver the incoming call to the wireless communications device in response to the reply", and independent claim 36 recites "routing a reply from the wireless communications device to the voice message server in the home network, and signaling the mobile switching center in the serving network from the voice message server in the serving network to deliver the incoming call to the wireless communications device in response to the reply". Thus, the Examiner recognizes that the wireless communication device's reply to the incoming call notification, which is routed to the voice message server, is not taught by the applied art of record. This teaching is captured in dependent claim 9 from the user device-side, and is captured in a similar manner in claims 35 and 36 from the network-side. Accordingly, the Applicants submit that claims 35 and 36 should be allowed at least by virtue of the Examiner's rationale for allowing claim 9.

2. In Ahmad, the user's Internet-based registration to a service for a device does not require that the user conduct the registration process via the same device that will be receiving the service.

The following excerpt of Ahmad is the entirety of Ahmad's disclosure related to registration to a call-waiting service:

... the user of the HMS must be a subscriber of such service and typically must register over the Internet with the ICWS for the Internet call-waiting notification
(e.g., [0039], Ahmad)

In the 7/26/2010 Amendment, the Applicants argued that Ahmad fails to disclose "transmitting a registration request, from the wireless communications device ..." as recited in independent claim 1, for example (Emphasis added). For example, mobile devices do not always have fully-featured web-browsers and/or applications, such that the user may very well use his/her desktop computer to register for a service on his/her HMS (phone). The Applicants main point here was that the Examiner should not simply assume that the user's registration to the call-waiting service is conducted via the HMS itself in Ahmad, since the user could clearly register to this service in another manner.

The Examiner was not persuaded by this argument, and states that "Examiner respectfully submits that when the user invokes the service, the user registers over the Internet and device identification number has to be inputted to identify the device" (e.g., Page 5 of the Office Action). Even if true, the registration itself still does not need to be conducted via the HMS. For example, it is typical for service providers to require service registration (e.g., changing the number of minutes on a cell phone plan, data usage subscriptions, etc.) with a full-featured web-browser (or by calling up the service provider). Thus, even if some type of registration request is sent to enable the call-waiting service in Ahmad, this registration request could take the form of a phone call (verbal request), a request from another computing device such as a desktop or laptop computer, and so on. The Examiner has not established that it would be obvious or inherent for Ahmad's registration to be conducted via the HMS itself, since Ahmad devotes only a single sentence to the registration to the call-waiting service at [0039] of Ahmad.

3. Ahmad's silence regarding 'when' registration is performed is reflected in claim 1, for instance, in the sense that the "registration request" is transmitted 'after' a packet data session between the wireless device and packet-switched network is established.

The Examiner states that "Applicant further argues that Ahmad is silent regarding when the user must perform the registration. Examiner respectfully submits that this not recite anywhere in the claims." (e.g., see Pages 5-6 of the Office Action).

Respectfully, the Examiner has somewhat misunderstood the Applicants remarks relating to the timing of the registration described by Ahmad at [0039] and its implications with respect to the claim language. Claim 1, for example, recites "transmitting a registration request, from the wireless communications device, over the packet data session to a voice message server ...". As far as 'when' this transmission would occur, it follows that the transmission would have to occur after the "establishing" step sets up the packet data session between the wireless communications device and the packet-switched network.

In Ahmad, the registration of the HMS to the call-waiting service could occur via some other device altogether while the HMS is powered-down or in a dormant state. The registration could even occur before the HMS is even delivered to the user. The registration could also occur while the HMS had an active packet data session, but over a communication link separate from the packet data session. Again, the Applicant was simply trying to point out that the registration in Ahmad would not necessarily occur over a packet data session between the HMS and the ICWS.

With regard to the Applicants reference to "data call" in the 7/26/2010 Amendment, the Applicants actually intended to recite "data session" instead of "data call". This may be partially responsible for the Examiner's confusion regarding the Applicants' comments of 'when' the registration occurs with respect to Ahmad.

4. A user or device ID does not necessarily convey connection information.

Claim 1 as an example recites "the registration request including connection information identifying the wireless communications device", e.g., see [0026], "[t]he registration request may include various information including the IP address for the subscriber station 102". IP

addresses, for example, convey connection (or routing) information associated with the subscriber device.

However, not all user or device IDs convey connection information. For example, a user's phone number identifies the user or device, but the phone itself need not even be powered-on so the presence of a phone number does not imply any connection whatsoever. The Examiner states that the "Examiner respectfully submits that when the user invokes the service, the user registers over the Internet and device identification number has to be inputted to identify the device" (e.g., Page 5 of the Office Action, Emphasis added). Even assuming the Examiner is correct (which the Applicants do not admit because Ahmad does not truly discuss device IDs in association with the registration), a device ID does not necessarily convey "connection information" as claimed.

SUMMARY

Since the Examiner has maintained his rejection of claims 1, 5-7, 11-12, 16-18, 22-25, 27-29 and 32-39 under 35 U.S.C. § 102 and 103 as noted above, the Applicants once again traverse these rejections. The Applicants expressly maintain the reasons from the prior responses to clearly indicate on the record that the Applicants have not conceded any of the previous positions relative to the maintained rejections. For brevity, the Applicants expressly incorporate the prior arguments presented in the 7/26/2010 response without a literal rendition of those arguments in this response.

For at least the foregoing reasons and the reasons set forth in Applicant's response of 7/26/2010, it is respectfully submitted that claims 1, 12, 23, 24, 29, 34, 35 and 36 are distinguishable over the applied art. The remaining dependent claims are allowable at least by virtue of their dependency on the above-identified independent claims. See MPEP § 2143.01. Moreover, these claims recite additional subject matter, which is not suggested by the documents taken either alone or in combination.

Application No. 10/643,604
Amendment dated December 14, 2010
Reply to Office Action of October 14, 2010

CONCLUSION

In light of the amendments and/or remarks contained herein, the Applicants submit that the application is in condition for allowance, for which early action is requested.

Please charge any fees or overpayments that may be due with this response to Deposit Account No. 17-0026.

Respectfully submitted,

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